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6 IN THE UNITED STATES DISTRICT COURT  
7  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9

10 UNITED STATES OF AMERICA,

No. CR 15-0284 WHA

11 Plaintiff,

12 v.

13 ABEL ANTONIO ALARCON,

**ORDER DENYING  
MOTION FOR  
APPOINTMENT OF COUNSEL**

14 Defendant.  
15 \_\_\_\_\_/

16 On December 1, 2015, defendant Abel Antonio Alarcon was sentenced to 70 months  
17 imprisonment for possession of methamphetamine with intent to distribute. The PSR, to which  
18 all objections were resolved before, calculated his base offense level at 30, based on his  
19 possession of 868 grams of methamphetamine and 27 grams of cocaine at the time of his arrest,  
20 which for the purpose of guidelines calculation, is equivalent to 1,741.4 kilograms of marijuana.  
21 See U.S.S.G. 2D1.1, Application Note 8(B).

22 After a 3-point reduction for acceptance of responsibility, Alarcon's adjusted offense  
23 level was 27, and with a criminal history category of II, his guidelines range was 78–97 months.  
24 See U.S.S.G. 2D1.1(c)(5). Alarcon agreed with this calculation and acknowledged it could be  
25 increased depending on the purity of the mixture, which was not known at the time of his plea  
26 agreement (Dkt. No. 16 ¶ 7).

27 On July 18, 2014, three days before Alarcon entered his plea agreement and several  
28 months before his sentencing, the United States Sentencing Commission passed Amendment  
782, which reduced by two levels many of the base offense levels in the drug quantity tables in

1 U.S.S.G. 2D1.1. Notably, Amendment 782 reduced from Level 32 to Level 30, the criteria for  
2 U.S.S.G. 2D1.1(c)(5), which included and still includes for “[a]t least 1,000 KG but less than  
3 3,000 KG of Marihuana” and “[a]t least 500 G but less than 1.5 KG of Methamphetamine.” *See*  
4 U.S.S.G., Supp. to Appx. C at 64. In other words, Alarcon was sentenced pursuant to the  
5 guidelines as amended by Amendment 782.

6 Alarcon now moves for appointment of counsel pursuant to Section 3006A(2)(b) of Title  
7 18(a) of the United States Code, which authorizes a district court to appoint counsel to represent  
8 a habeas petition when it “determines that the interests of justice so require and such person is  
9 financially unable to obtain representation.” He states his request is “for the purpose of  
10 processing petitions under . . . Amendment 782” (Dkt. No. 35).

11 Alarcon’s motion lacks any indication of his financial status, but more importantly, the  
12 basis of his proposed petition is sufficiently clear: He seeks a sentence reduction pursuant to  
13 Amendment 782. Alarcon has already benefited from Amendment 782, and he is not entitled to  
14 relief thereunder. Accordingly, the interests of justice do not require appointment of counsel.

15 Alarcon’s motion is **DENIED**.

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17 **IT IS SO ORDERED.**

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19 Dated: May 16, 2017.

20   
21 WILLIAM ALSUP  
22 UNITED STATES DISTRICT JUDGE  
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